

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALLEN DAVID DANIEL,

Plaintiff,

No. 08-CV- 14068-DT

vs.

Hon. Gerald E. Rosen

CHERYL EDERTON, et al.,

Defendants.

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ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on January 30, 2009

PRESENT: Honorable Gerald E. Rosen
Chief Judge, United States District Court

This matter is presently before the Court on Plaintiff's "Motion for Immediate Consideration Relief to Alter, Amend or Void December 18, 2008 [Judgment]," which the Court construes as a Motion Reconsideration of the December 18, 2008 Order and Judgment dismissing his case due to his failure to pay the required filing fee as ordered to do on November 11, 2008.

The requirements for the granting of motions for reconsideration are set forth in Eastern District of Michigan Local Rule 7.1(g), which provides in relevant part:

Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must not only demonstrate a palpable defect by

which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

L.R. 7.1(g)(3).

Therefore, in order to prevail on a motion for reconsideration, the movant must not only demonstrate a palpable defect by which the Court has been misled, he must also show that a different disposition of the case must result from a correction of that defect. A “palpable defect” is “a defect that is obvious, clear, unmistakable, manifest or plain.” *United States v. Lockette*, 328 F. Supp. 2d 682, 684 (E.D. Mich. 2004). Moreover, a motion that merely presents the same issues already ruled upon by the Court -- either expressly or by reasonable implication -- will not be granted. L.R. 7.1(g). Furthermore, Plaintiff has not shown a “palpable defect” by which the Court has been misled.

Plaintiff Daniel has not shown that he has paid the \$350 filing fee, nor has he offered any justifiable excuse for failing to do so. Instead, he continues to argue the merits of the numerous complaints he has filed in various courts during the course of his incarceration.

For these reasons,

IT IS HEREBY ORDERED that Plaintiff’s Motion for Reconsideration [**Dkt. # 15**] is DENIED.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: January 30, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 30, 2009, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry

Case Manager